

REMARKS

Applicant thanks the Examiner for arranging the interview with the Examiner, Examiner Fisher and SPE Oskosky to discuss application serial nos. 09/670,561, 09/670,562 and 09/253,014 (and the restriction requirement in '014 that resulted in the divisional filings that became serial no. '561 and '562), in addition to the decision of the Board of Appeals for Patent Appeals and Interference in the '014 application, the other co-pending applications, the patent enforcement actions and the reexamination requests. Please also find attached an Information Disclosure Statement and notice of co-pending applications. If the Examiner believes that any additional information from the Applicant would assist in the examination of the present application, the Examiner is encouraged to call Applicant's counsel at the telephone number below and that information will be provided if at all possible.

As discussed, Applicant has added claims directed to the participant seller's auction management, initiation and control features that provide the unique scalability and self-organizing aspects of the claimed invention. In fact, as more specifically described in the claims, the present claims go a step further and specifically claim the stand-alone user application and features that allow multiple independent sellers to schedule and direct control of the auction instances at internet-based auction systems.

Claims 18-34 are now pending with claims 18, 19, 23 and 27 being independent. Claims 11-17 have been cancelled without disclaimer.

Applicant submits that newly presented claims 18-34 are allowable over the art of record. In particular, the references applied in the final office action mailed May 18, 2004 (EASE, Agricultural, Livestock), regardless of how they are hypothetically combined, fail to disclose or suggest the combination of features recited in new claims 18-34. Accordingly, favorable consideration is requested.

Applicant acknowledges the Examiner's indication that previously pending claims 1-17 were provisionally rejected under the doctrine of obviousness-type double-patenting in view of co-pending and commonly-owned application serial no. 09/253,014. Applicant will file a suitable terminal disclaimer upon an indication of otherwise allowable subject matter.

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Serial No. : 09/670,562  
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It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 9/20/04

  
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